

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

T.C. GRANT, #151727,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:20-cv-866-WHA-SMD
)	[WO]
KAY IVEY, <i>et al.</i> ,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Pro se Plaintiff T.C. Grant, an inmate currently confined at the Easterling Correctional Facility, brings this action to obtain a release order and recover punitive and compensatory damages under 42 U.S.C. § 1983. (Doc. 1). On October 28, 2020, the undersigned Magistrate Judge directed Plaintiff to pay a partial filing fee of \$34.33 on or before November 17, 2020. (Doc. 3, p. 2). The undersigned cautioned Plaintiff that his failure to do so would result in a recommendation that his Complaint be dismissed. *Id.* To date, Plaintiff has failed to pay the partial filing fee.

This action cannot properly proceed without Plaintiff's participation. Under the circumstances of this case, the undersigned finds that sanctions lesser than dismissal would not better serve the interests of justice. *See Abreu-Velez v. Bd. of Regents of Univ. Sys. of Ga.*, 248 F. App'x 116, 117–18 (11th Cir. 2007). Accordingly, this case should be dismissed without prejudice for Plaintiff's failure to pay the partial filing fee as ordered by this Court. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (explaining that,

where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

The undersigned Magistrate Judge therefore RECOMMENDS that Plaintiff's Complaint (Doc. 1) be DISMISSED without prejudice.

It is further ORDERED that the parties shall file any objections to this Recommendation on or before **January 18, 2021**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which each objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation, and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1; *see also Stein v. Lanning Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982); *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 4th day of January, 2021.

A handwritten signature in black ink, appearing to read 'Stephen M. Doyle', written over a horizontal line.

Stephen M. Doyle
CHIEF U.S. MAGISTRATE JUDGE